

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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NEW MEXICO UNITED FOOD AND :
COMMERCIAL WORKERS UNION'S AND :
EMPLOYERS' HEALTH AND WELFARE TRUST :
FUND, :

Plaintiff, :

-against- :

PURDUE PHARMA, L.P., et al., :

Defendants. :

07 Civ. 6916 (JGK)

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AMERICAN FEDERATION OF STATE AND :
MUNICIPAL EMPLOYEES, DISTRICT COUNCIL :
47 HEALTH AND WELFARE FUND, et al., :

Plaintiffs, :

-against- :

PURDUE PHARMA, L.P. and THE PURDUE :
FREDERICK COMPANY, INC., :

Defendants. :

07 Civ. 8761 (JGK)

ORDER

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SIDNEY H. STEIN, U.S. District Judge.

The Court has received and reviewed Mr. Hester's October 25, 2007 letter on behalf of defendant Purdue and the related prior and subsequent correspondence. In that correspondence, Purdue requests that this Court accept the two above-captioned litigations as related to In re OxyContin Antitrust Litigation, 04 Md. 1603 (SHS), pursuant to Local Rule 15 of this Court's Rules for the Division of Business Among District Judges. Purdue's request is denied.

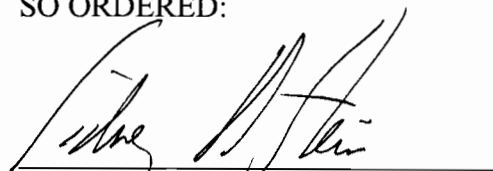
The OxyContin MDL was established for the purpose of coordinating antitrust claims brought against Purdue pursuant to Walker Process Equipment, Inc. v. Food Machinery & Chemical Corp., 382 U.S. 172, 86 S. Ct. 347, 15 L. Ed. 2d 247 (1965), for enforcing allegedly invalid patents on OxyContin. The two actions that Purdue seeks to have this Court deem “related” to that MDL contain no such claims. Rather, those two actions assert claims arising out of Purdue’s allegedly improper marketing of OxyContin.

Moreover, the antitrust actions in the MDL are all currently stayed pending the outcome of the remand from the U.S. Court of Appeals for the Federal Circuit to this Court to determine the validity of Purdue’s OxyContin patents. To the extent there are five actions within the MDL that, in addition to asserting Walker Process claims, also assert improper marketing claims, those actions have also been stayed pending the resolution of the remand question.

Accordingly, the “just, efficient and economical conduct,” Rule 15, of these two marketing litigations will not be furthered by adding them to an MDL that centers on antitrust claims predicated on the as yet unresolved validity of the OxyContin patents.

Dated: New York, New York
November 21, 2007

SO ORDERED:



Sidney H. Stein, U.S.D.J.